

REMARKS

Request for Reconsideration

Applicants have carefully considered the matters raised by the Examiner in the outstanding Office Action but remain of the opinion that patentable subject matter is present. Applicants respectfully request reconsideration of the Examiner's position as outlined in the Final Office Action dated October 1, 2004 based on the above amendments to the claims and the following remarks.

Claim Status

Claims 1-5 had been previously cancelled while Claims 6-9 are currently under prosecution. Claims 6 and 8 have been amended herein. Thus, currently under prosecution are Claims 6-9.

Invention

As taught in the Application on page 3, first paragraph, it is conventional practice to add an overdose of flavors to either prepared frozen foods or prepared

microwavable foods in order to achieve the minimum taste requirements. Thus, conventional practice dictates to add large doses of bare flavors to foods which are frozen or microwaved and not to encapsulate the flavor.

Also, as brought out in the Application on page 3, first paragraph, this is a costly process.

Applicants have discovered that a prepared frozen food and a prepared microwavable food can be prepared wherein overdosing is no longer necessary and the flavors are stabilized against repeated freezing and thawing or in the case of microwavable food, are stabilized against microwave cooking. This stabilization of flavors in both prepared frozen foods and prepared microwavable foods is provided by encapsulating the flavor with a cyclodextrin.

Claims 6 and 8 have been amended herein to emphasize the fact that the Invention is directed to making a prepared frozen food or a prepared microwavable food wherein the flavor has been stabilized.

The claims have also been amended herein to emphasize that the use of cyclodextrin encapsulated flavor is better than non-encapsulated flavor or conventionally encapsulated flavor. Support for this amendment can be found on page 23, the first sentence and on page 24 in the first sentence where it teaches that cyclodextrin encapsulated flavors perform better than non-encapsulated flavors or conventionally encapsulated flavors. Respectfully, no new matter has been added.

Claims 6 and 8 have also been amended herein to specify the amount of cyclodextrin used to encapsulate the flavor. Support for this amendment can be found in the last paragraph on page 4 of the Application.

Rejection

Claims 6-9 had been rejected as being unpatentable over Anonymous, Furata and Reineccius. As pointed out by the Examiner, each one of these references teaches encapsulating a flavor with cyclodextrin. What is missing from each one of these references as well as all of the references cited by the Examiner, is the teaching of making a prepared frozen food or a prepared microwavable food with

an encapsulated flavor. As brought out in the Application in the first paragraph on page 3, this is understandable because it is conventional practice to overdose the prepared frozen food or the prepared microwavable food with the naked flavor rather than encapsulate it. This is because it is conventional thinking that encapsulating flavors in prepared frozen foods and prepared microwavable foods doesn't work. In other words, encapsulating a flavor for a prepared frozen or prepared microwavable food is no better than the naked flavor.

Since conventional thinking is to overdose the prepared frozen food or the prepared microwavable food with flavor, one of skill in the art would not deem it obvious that the cycyodextrin encapsulated flavor would stabilize the flavor in a prepared microwavable food or prepared frozen food.

It may be true that it would be obvious to try it but, based on conventional thinking, it is clear that it would not be obvious that it would work to stabilize the flavor in a prepared microwavable food or a prepared frozen food to a degree better than the naked flavor.

Applicant's Declaration clearly demonstrates, as does Applicant's Specification, that a cyclodextrin encapsulated flavor outperforms both the naked flavor and conventional encapsulated flavors in prepared frozen foods and prepared microwavable foods. Thus, Applicants have gone contrary to conventional thinking and have discovered that the cyclodextrin encapsulated flavor actually outperforms naked flavors and conventionally encapsulated flavors.

In the Office Action, the Examiner states that one of skill in the art would expect the cyclodextrin encapsulated flavor to work in a food product. There are two problems with this reasoning. First, we are not dealing with a food product. We are dealing with a prepared frozen food and a prepared microwavable food. In other words, these are foods that have been specifically prepared by the food manufacturer for microwaving or for freezing. Thus, we are not dealing with ordinary prepared foods but, rather, foods that have a specific purpose and are prepared in a specific manner. It is well recognized by one of skill in the art that a prepared microwavable food and a prepared frozen food are unique and distinct from generally prepared foods. One of skill in the art does not expect a can of soup to be prepared in the same way that a frozen dinner is prepared.

Second, as brought out by the Application on page 3, in the first paragraph, one of skill in the art does not expect encapsulated flavor to function any better than a naked flavor in a frozen prepared food and a prepared microwavable food. Because of this, one of skill in the art would not turn to cyclodextrins, a known encapsulate, for stabilizing a flavor in a prepared microwavable food or a prepared frozen food.

Each one of the references cited by the Examiner simply teaches that you can encapsulate a flavor with cyclodextrin. There is no teaching or suggestion in any one of the references cited by the Examiner that a flavor can be stabilized against freezing and microwave cooking. In fact, there is no teaching in any one of the references cited by the Examiner that an encapsulated flavor outperforms naked flavors in frozen prepared foods and prepared microwavable foods.

Respectfully, the Examiner has no support for the statement that one of skill in the art would expect a cyclodextrin encapsulated flavor to function any better

than a naked flavor in frozen prepared foods or prepared microwavable foods.

Again, it may be obvious to try to stabilize flavors in prepared frozen foods and prepared microwavable foods by encapsulating the flavor in the cyclodextrin, but obvious to try is not the test. The question is, would one of skill in the art expect to stabilize the flavor in a prepared microwavable food and a prepared frozen food by encapsulating the flavor with cyclodextrin? The answer is no. The answer is no because conventional thinking was to overdose the flavor in the prepared microwavable food and the prepared frozen food.

Conclusion

Respectfully, Applicants' claims are patentable over the cited references taken alone or in combination.

Extension of Time

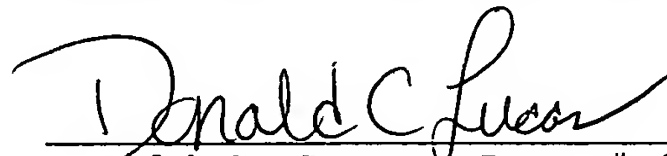
A three month extension of time is hereby requested and PTO Form 2038 is enclosed herewith authorizing payment of the appropriate government fee. Should any further fees

or extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit account # 02-2275.

Respectfully submitted,

MUSERLIAN, LUCAS AND MERCANTI, LLP

By:



Donald C. Lucas, Reg. # 31,275

(Attorney for Applicant(s))

475 Park Avenue South

New York, New York 10016

Tel. # (212) 661-8000

Fax # (212) 661-8002

DCL/mr

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